

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

LUIS LONDONO-DAZA,

Defendant-Petitioner.

**Criminal Case No. 08-20320
Civil Case No. 09-13839
Honorable Denise Page Hood**

ORDER DECLINING TO ISSUE A CERTIFICATE OF APPEALABILITY

On February 7, 2013, the Court entered an Order Denying Motion to Correct Clerical Error in Presentence Investigation Report. Defendant-Petitioner Luis Londono-Daza filed a Notice of Appeal to the Sixth Circuit Court of Appeals on February 25, 2013.¹ Although it appears Londono-Daza is not appealing his withdrawn Section 2255 motion, the Court will address whether a certificate of appealability should be issued on Londono-Daza's February 25, 2013 Notice of Appeal from the February 7, 2013 Order Denying Motion to Correct Clerical Error in Presentence Investigation Report.

Federal Rule of Appellate Procedure 22 provides that an appeal may not proceed unless a certificate of appealability (COA) is issued under 28 U.S.C. § 2253. Rule 11 of the Rules Governing Section 2255 Proceedings requires that the Court "must issue or deny a certificate of appealability

¹ On September 28, 2009, Londono-Daza filed a Motion to Vacate Sentence under 28 U.S.C. § 2255 based on an ineffective assistance of counsel claim, which was withdrawn on November 29, 2011. (Doc. Nos. 17, 38)

when it enters a final order adverse to the applicant.” A COA may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. §2253(c)(2). A petitioner must show “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation omitted).

The Court concludes that reasonable jurists would not debate this Court’s rulings set forth in its February 7, 2013 Order Denying Motion to Correct Clerical Error in Presentence Investigation Report. The Court declines to issue a certificate of appealability.

Accordingly,

IT IS ORDERED that a certificate of appealability **not** issue in this case.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: April 22, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 22, 2013, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager